

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**LATTIME CONSTRUCTION AND  
HOME BUILDING, INC.,**

**PLAINTIFF,**

**VS.**

**L. M. BERRY AND COMPANY,  
CENTURYTEL SERVICE  
GROUP, L.L.C., A, B, C, D, E,  
F PARTNERSHIPS, G, H, I  
CORPORATIONS BEING THOSE  
PERSONS, PARTNERSHIPS,  
CORPORATIONS, ASSOCIATIONS  
OR OTHER LEGAL ENTITIES  
WHO ON THE OCCASIONS  
COMPLAINED OF IN THIS  
COMPLAINT COMMITTED THE  
BREACH OF CONTRACT,  
FRAUD, NEGLIGENCE AND/OR  
WANTONNESS AND ALL ACTS  
CLAIMED BY PLAINTIFF  
HEREIN, ALL OF WHOSE TRUE  
NAMES AND IDENTITIES ARE  
OTHERWISE UNKNOWN TO  
THE PLAINTIFF AT THIS TIME  
BUT WILL BE ADDED BY  
AMENDMENT WHEN  
ASCERTAINED,**

**DEFENDANTS.**

**CASE NO.:** 1:05cv1062-F

**COMPLAINT**

1. Plaintiff is a corporation organized under the laws of the State

of Alabama presently doing business in Dothan, Houston County, Alabama. Defendant, L. M. Berry Company, is a Georgia corporation doing business in Alabama at the time of the claims in this case. Defendant, CenturyTel Service Group, L. L. C., is a Louisiana organized limited liability company authorized to do business in the State of Alabama at the time of the claims in this case.

2. Those unknown or fictitious Defendants named herein are those person, partnerships, corporations, associations or other legal entities who on the occasions complained of in this complaint, committed the breach of contract alleged in Count One of this complaint, committed the acts of fraud alleged in Count Two of this complaint and committed the negligence and/or wantonness alleged in Count Three in this complaint, all of whose true names and legal identities are otherwise unknown to the Plaintiff but will be added by amendment when ascertained.

### **COUNT ONE**

3. On or about July 14, 2003, Plaintiff and Defendants entered into a contract whereby the Defendant, L. M. Berry Company, in behalf of CenturyTel Service Group, L. L. C., would provided Plaintiff with multiple listings in the CenturyTel directory for 2004.

4. The Defendants have breached the agreement referred to herein

by failing or refusing to provide the Plaintiff with the listings contracted for in the 2004 CenturyTel directory.

5. As a consequence of the breach of the agreements by Defendants, Plaintiff has been caused to suffer substantial monetary loss, loss of revenue, lost contact with potential clients, substantial mental anguish, annoyance and inconvenience, incidental and consequential damages, attorneys fees, costs, expenses and other lost revenue and income; and, Plaintiff has been otherwise injured and damaged.

WHEREFORE, Plaintiff demands judgment against Defendant for compensatory and punitive damages in the sum of \$500,000.00, and costs.

### **COUNT TWO**

6. Subsequent to July 14, 2003, on or by December 2003, Plaintiff learned that the listings that he had contracted with the Defendants to be placed in the 2004 CenturyTel directory were improper and not as he had contracted for.

7. Said representations and agreements made to Plaintiff by the Defendants where false and the Defendants knew that they where false, or Defendants without knowledge of the true facts recklessly misrepresented them, or they were made by mistake with the intention

that Plaintiff should rely upon them. Defendants representations were malicious, oppressive and with intent to deceive the Plaintiff herein.

8. Plaintiff believed the representations made to him by the Defendants and relied upon said representations.

9. As a consequence of the fraud carried out of the Defendants against Plaintiff, Plaintiff has been caused to suffer a substantial monetary loss, loss of revenue, lost contact with potential clients, substantial mental anguish, annoyance and inconvenience, incidental and consequential damages, attorneys fees, costs, expenses and other lost revenue and income; and, Plaintiff has been otherwise injured and damaged.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory and punitive damages in the amount of five hundred thousand and no/100 (\$500,000.00), and costs.

### **COUNT THREE**

10. On or about December 2003, Plaintiff learned that Defendants had negligently and/or wantonly caused or allowed listings in the 2004 CenturyTel directory to be placed therein contrary to his contract with them for these listings.

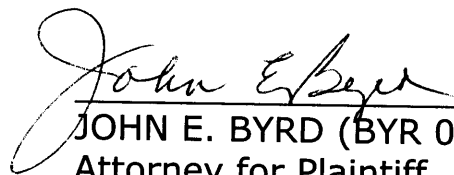
11. As a proximate consequence of Defendants said negligence

and/or wantonness, Plaintiff was caused to suffer injury and damages as stated herein.

12. As a proximate consequence of the negligence and /or wantonness by Defendants against Plaintiff, Plaintiff has been caused to suffer substantial monetary loss, loss of revenue, lost contact with potential clients, substantial mental anguish, annoyance and inconvenience, incidental and consequential damages, attorneys fees, costs, expenses and other lost revenue and income; and, Plaintiff has been otherwise injured and damaged.

WHEREFORE, Plaintiff demands judgment against Defendants, for compensatory and punitive damages in the amount of five hundred thousand and no /100 (\$500,000.00) and costs.

Dated this 15 day of Nov., 2005.

  
JOHN E. BYRD (BYR 005)  
Attorney for Plaintiff  
P.O. Box 536  
Dothan, Alabama 36302  
Telephone (334) 794-0759  
Fax (334) 792-0163

**JURY DEMAND**

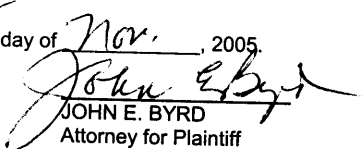
Plaintiff demands a trial by struck jury as to all counts contained in this complaint.

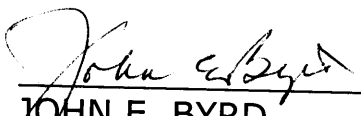
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CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of the foregoing upon the Honorable Craig A. Alexander and Honorable Michael L.. Wade, Adams and Reese LLP, Attorneys at Law, 2100 3rd Avenue, Suite 1100, Birmingham, Alabama 35203 by placing a copy of same properly addressed and postage prepaid in the U.S. mail.

Dated this the 15 day of Nov., 2005.

  
JOHN E. BYRD  
Attorney for Plaintiff

  
JOHN E. BYRD  
Attorney for Plaintiff